

REGISTRATION.]

total number of marks attainable will be 300, of which the examinee must obtain not less than two-thirds to pass.

The examination for the office of special Sub-Registrar will be analogous to that which candidates for the office of a Sub-Magistrate have to undergo, and will be held before the Registrar of the District. (G. R. No. 2237, dated 12th May 1871.)

2. The duty of assessing the value of answers to questions set at the examination of subordinates in the Registration Department rests with the various Examination Committees at the different district centres, the Inspector General of Registration furnishing "a reply in manuscript paper" to the President of each Local Committee on the day following that on which the examination is held. The examination in Sind should be identical with that for the Presidency Proper and held on the same day. The Commissioner should make arrangements for it, the Inspector General supplying the papers of questions and answers. (G. R. No. 5708, dated 27th August 1887.)

3. No one who has not passed the general educational test should be employed even as a Kárkún under a Sub-Registrar. (G. R. No. 2724, dated 13th May 1873.)

4. It is at the discretion of a District Registrar, acting in his capacity as such, as the Collector of the District and as President of the Examination Committee, to determine in what cases respectable persons of a class not-likely to enter the service of Government as Kárkúns, but for whom the more independent post of a Sub-Registrar would have many attractions, might be allowed to appear at the annual examination of the Registration Department. (G. R. No. 6989, dated 30th December 1873.)

5. An employé of the Registration Department is not entitled to claim exemption from the examination contemplated in Rule 82 of the Registration Departmental Rules by reason of the fact that he has passed the Special Lower Standard Examination in the Revenue Department. (G. R. No. 212, dated 12th January 1892.)

X.—FEES.

1. The payments into the treasury of the fees levied under the rules* under Section 91 of the Indian Registration Act, 1877, and Section 213 of the Bom-
bay Land Revenue Code for regulating searches for, of inspection of, and grant of extracts from or copies of, public documents should be checked by the Accountant General in the same manner as fines are treated. (G. R. No. 3603, dated 21st June 1876.)

* Printed at
pp. 1-5 of the
Compilat ion
of General
Rules.

2. There is no objection to process fees leviable under the Fee Table being levied in cash and credited to the Registration Department. (G. R. No. 1151, dated 4th March 1878.)

[REGISTRATION.]

3. Fees on documents presented for registration should not be retained in the personal custody of any public officer longer than may be absolutely necessary, but should be dealt with in the same way as other public money and be paid at once into the nearest treasury.

In order to provide for refunds being made without unnecessary delay, the Local Governments, when a recommendation to that effect is made by the Inspector General of Registration or officer exercising the powers of an Inspector General of Registration, may allow to each Registering Officer a permanent advance of not more than Rs. 20, from which refunds may be made at once, bills in detail for the amount being afterwards submitted in the usual way. For large amounts the payments should be made only on bills at treasuries or sub-treasuries. (G. I., F. D., Nos. 125, dated 9th January 1874, and 1443, dated 14th March 1877; *vide* G. R. Nos. 364, dated 23rd January 1874, and 1818, dated 20th March 1877.)

4. The Mahálkari of Guhágár Petha in the Ratnágiri District is authorized to receive the registration fees, whenever they are paid, for transmission to the Chiplún Sub-Treasury. (G. R. No. 7945, dated 8th November 1890.)

5. In a case in which one party sold to another for a lump sum (Rs. 375) a piece of land together with a mortgage lien on another piece of land, and in which the value of the first piece of land was not stated, but the mortgage lien was Rs. 425, the question was raised whether for the purposes of the registration fee chargeable on the deed of conveyance under the Fee Table, the value or consideration should be deemed to be Rs. 375 or Rs. $375 + 425$. It was held that the safest index was the amount of the consideration money stated in the deed.

In another case, in which certain immoveable property having incumbrances on it amounting to Rs. 200 was sold in auction sale for Rs. 16, a certificate of sale for Rs. 16 being granted by the Civil Court, the question was raised whether for the purposes of the registration fee chargeable on the certificate of sale under the Fee Table, the value or consideration should be deemed to be Rs. 16 or Rs. $16 + 200$; and the following opinion was recorded by the Remembrancer of Legal Affairs:—

"The clear and obvious distinction between the two cases is that in the first the purchaser buys, not the land itself, but the mortgage lien on it. He steps into the place of the mortgagor. In the other case he buys the land subject to a debt on it which he is bound to pay. He steps into the place of the mortgagor, whose right, title and interest he has bought. What he really buys is nothing more than the mortgagor's equity of redemption. Now, the value of this equity of redemption must in most cases be a mere nominal value, being the value of the property mortgaged less the amount of the mortgage lien; and this value in an auction sale is shown by the highest bid, which in the present case was Rs. 16."

REGISTRATION.]

"The Civil Procedure Code provides that when property is ordered to be sold by public auction in execution of a decree, any incumbrance to which the property is liable shall be set forth in the proclamation of sale, and the Court is required to make special enquiry to discover any incumbrance. When any property is sold in execution of a decree, which is liable to any such incumbrance, the Code provides (Section 295) that the Court may, with the assent of the incumbrancer, order the property to be sold free from the incumbrance, giving the incumbrancer the same right against the proceeds of the sale as he had against the property sold. Otherwise the property is sold burdened with the incumbrance, and the purchaser is at liberty to take the incumbrance into consideration in bidding.

"What is actually sold in the auction sale is the land and not the mortgagor's equity of redemption; and therefore the highest bidding does not necessarily represent the value or consideration for which the land is actually purchased. It represents the price which is paid at the sale, but to make up the value or consideration this price must be added to the debt which constitutes an incumbrance on the property. Consequently, the debt is properly deemed part of the consideration, in respect whereof the transfer is chargeable with *ad valorem* registration fee as well as stamp duty." (L. R. Nos. 1082, dated 7th December 1878, and 1364, dated 9th November 1880; *vide* G. R. Nos. 6461, dated 14th December 1878, and 6376, dated 4th December 1880.)

6. When the value of an instrument which is chargeable with duty under the table of fees issued under Section 78 of the Registration Act, No. III of 1877, is expressed in pounds sterling, or pounds currency, the value of such money in the currency of British India should, for the purposes of the fee chargeable under the Registration Act, be calculated according to the scale laid down in Section 19 of the Indian Stamp Act of 1879, whereby one pound sterling or pound currency is regarded as equivalent to ten rupees. (G. I., H. D., No. 5-151, dated 30th January 1883; *vide* G. R. No. 1418, dated 20th February 1883.)

XI.—DOCUMENTS REQUIRING TO BE REGISTERED OR OTHERWISE.

1. A surrender of a lease is compulsorily registrable if the value of the lessee's right, title or interest is one hundred rupees or upwards, but not if it is less than one hundred rupees (*vide* Sections 17 (b) and 18 (a) of the Registration Act). (L. R. No. 1592, dated 29th November 1884; *vide* G. R. No. 9826, dated 12th December 1884.)

2. Receipts for money paid for land acquired (for public purposes) by private agreement are compulsorily registrable when the amount of consideration is one hundred rupees or upwards. In such cases clause (c) of Section 17 of Act III of 1877 is applicable, because the receipts are not mere receipts of money. They are the only written evidence of the agreement, and they show that the money is received on account of the assignment of the payee's right, title and interest in the property concerned. (G. R. No. 933, dated 31st January 1885.)

3. Receipts for money paid under awards under